

STATE OF NEW YORK

1885

2021-2022 Regular Sessions

IN ASSEMBLY

January 11, 2021

Introduced by M. of A. PERRY -- read once and referred to the Committee on Higher Education

AN ACT to amend the education law and the public health law, in relation to clarifying what constitutes abandonment of a patient by a physician for purposes of a medical misconduct allegation, and requiring a physician practicing as a patient's primary care physician who opts to no longer treat the patient to provide notice to such patient

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 30 of section 6530 of the education law, as
2 added by chapter 606 of the laws of 1991, is amended and a new subdivi-
3 sion 51 is added to read as follows:

4 30. Abandoning or neglecting a patient under [~~and~~] the physician's
5 care including, but not limited to, patients in need of immediate
6 professional care, without making reasonable arrangements for the
7 continuation of such care, or abandoning a professional employment by a
8 group practice, hospital, clinic or other health care facility, without
9 reasonable notice and under circumstances which seriously impair the
10 delivery of professional care to patients or clients;

11 51. Failing to comply with the provisions of subdivision ten of
12 section sixty-five hundred twenty-seven of this title.

13 § 2. Section 6527 of the education law is amended by adding a new
14 subdivision 10 to read as follows:

15 10. (a) If a licensed physician having established a primary care
16 relationship with a patient chooses to no longer treat the patient in
17 the capacity as the patient's primary care physician, such physician
18 shall provide notice to the patient not less than ninety days prior to
19 the cessation of the provision of services. Such notice shall include
20 information as to how the patient can obtain his or her medical records
21 or how the records can be transferred to another physician. The physi-
22 cian may include in the notice information identifying other physicians

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[~~-~~] is old law to be omitted.

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1 or medical groups which he or she recommends the patient consider as his
2 or her next primary care physician. The notice shall be considered a
3 formal action and shall be provided to the individual in the form of
4 mail, email or phone; provided that a written record noting when and how
5 the patient was contacted shall be maintained for a period of not less
6 than three years, and shall be noted in such patient's medical records.
7 If the patient was contacted by phone, the record shall reflect whether
8 the physician was successful in speaking with the patient.

9 (b) For the purposes of this subdivision:

10 (i) the term "primary care physician" shall mean a physician duly
11 licensed to practice medicine and who consents to being a patient's
12 first contact when such patient has a health concern, who provides
13 continuing care to such patient for various medical conditions, and who,
14 having established a relationship with the patient in which the physi-
15 cian treats such patient during regularly scheduled doctor-patient
16 visits, provides services, including, but not limited to, an annual
17 physical.

18 (ii) a "primary care relationship" between a patient and a physician
19 shall be deemed to exist where (1) a verbal or written agreement exists
20 between a patient and a physician, under which such physician has agreed
21 to serve as such patient's primary care physician; or (2) the physician
22 seeing the patient has developed a relationship wherein such physician
23 provides the patient medical care that includes, but is not limited to,
24 diagnostic services, prescribing medication, and treating illness during
25 non-hospital visits for medical services.

26 § 3. The public health law is amended by adding a new section 230-a-1
27 to read as follows:

28 § 230-a-1. Specific penalties for professional misconduct. Notwith-
29 standing the provisions of section two hundred thirty-a of this title,
30 or any other provision of law to the contrary, the state board for
31 professional medical conduct shall impose on a present or former licen-
32 see found guilty of a violation of subdivision thirty or fifty-one of
33 section sixty-five hundred thirty of the education law the following
34 penalties:

35 1. For a first violation, a ninety-day suspension of the license of
36 such licensee, as applicable, and a fine of ten thousand dollars.

37 2. For each subsequent violation, the penalty shall be determined by
38 the state board for professional medical misconduct, but shall not be
39 less than a ninety-day suspension of the license of such licensee, as
40 applicable, and a fine of not less than ten thousand dollars.

41 § 4. This act shall take effect on the one hundred twentieth day after
42 it shall have become a law.